



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0118; Notice 2]

Mazda North American Operations, Grant of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Grant of Petition

SUMMARY: Mazda North American Operations (MNAO)¹, on behalf of Mazda Motor Corporation of Hiroshima, Japan (Mazda)², has determined that certain Mazda brand motor vehicles manufactured between 2007 and 2012 for sale or lease in Puerto Rico, do not fully comply with paragraph S4.5 of Federal Motor Vehicle Safety Standard (FMVSS) No. 138, *Tire Pressure Monitoring Systems*. MNAO has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*, dated June 21, 2012.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556, MNAO has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice

¹ Mazda North American Operations is a U.S. company that manufactures and imports motor vehicles.

² Mazda Motor Corporation is a Japanese company that manufactures motor vehicles.

of receipt of the petition was published, with a 30-day public comment period, on October 24, 2012 in the Federal Register (77 FR 65051). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2012-0118."

CONTACT INFORMATION: For further information on this decision contact Mr. Harry Thompson, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202)366-5289, facsimile (202) 366-5930.

VEHICLES INVOLVED: Affected are approximately 16,748 Mazda brand motor vehicles manufactured between 2007 and 2012 for sale or lease in Puerto Rico...

RULE TEXT: Section S4.5 of FMVSS No. 138 specifically states:

S4.5 Written instructions.

- (a) Beginning on September 1, 2006, the owner's manual in each vehicle certified as complying with S4.5 must provide an image of the Low Tire Pressure Telltale symbol (and an image of the TPMS Malfunction Telltale warning ("TPMS"), if a dedicated telltale is utilized for this function) with the following statement in English:

Each tire, including the spare (if provided), should be checked monthly when cold and inflated to the inflation pressure recommended by the vehicle manufacturer on the vehicle placard or tire inflation pressure label. (If your vehicle has tires of a different size than the size indicated on the vehicle placard or tire

inflation pressure label, you should determine the proper tire inflation pressure for those tires.)

As an added safety feature, your vehicle has been equipped with a tire pressure monitoring system (TPMS) that illuminates a low tire pressure telltale when one or more of your tires is significantly under-inflated. Accordingly, when the low tire pressure telltale illuminates, you should stop and check your tires as soon as possible, and inflate them to the proper pressure. Driving on a significantly under-inflated tire causes the tire to overheat and can lead to tire failure. Under-inflation also reduces fuel efficiency and tire tread life, and may affect the vehicle's handling and stopping ability...

SUMMARY OF MNAO'S ANALYSES: MNAO explains that the noncompliance is that certain Mazda brand motor vehicles sold in Puerto Rico were not delivered with the instruction statements required by paragraph S4.5(a) of FMVSS No 138 written in English. The instructions were provided in Spanish as part of the Spanish language version of the vehicle owner's manual provided with the vehicles at first sale; however, no English version owner's manuals were provided.

MNAO stated its belief that while the subject motor vehicles were delivered to customers in Puerto Rico with owner's manuals that did not include the statement as required by paragraph S4.5(a) of FMVSS No. 138 in English, it is inconsequential as it relates to motor vehicle safety for the following reasons:

1. All affected owner's manuals contain accurate Spanish translations of the information.
2. In Puerto Rico, Spanish is the universally prevalent language. According to a U.S. Census done by the Census Bureau in 2010, 95.7% of Puerto Rico's population speaks Spanish as their primary language.
3. English owner's manuals for Mazda motor vehicles manufactured on or after 2002 can be downloaded from MNAO's web site or upon request through MNAO dealerships and is available for customers in Puerto Rico free of charge.
4. MNAO has not received any complaints or claims in Puerto Rico with regards to the language of the owner's manuals.

MNAO has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 138.

In summation, MNAO believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA DECISION: NHTSA agrees with MNAO that the noncompliance is inconsequential to motor vehicle safety. MNAO has provided

sufficient documentation that the language in the Owner's Manual is the primary language for Puerto Rico and does not present a safety risk.

In consideration of the foregoing, NHTSA has determined that MNAO has met its burden of persuasion that the subject FMVSS No. 138 noncompliance in the vehicles identified in MNAO's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, MNAO's petition is hereby granted and MNAO is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to approximately 16,748 vehicles that MNAO no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate

commerce of the noncompliant vehicles under their control after MNAO notified them that the subject noncompliance existed.

AUTHORITY: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

ISSUED ON: June 18, 2013.

Claude H. Harris, Director
Office of Vehicle Safety Compliance

BILLING CODE: 4910-59-P

[FR Doc. 2013-14920 Filed 06/21/2013 at 8:45 am; Publication
Date: 06/24/2013]